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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,441	06/26/2001	Guy Tabacchi	S.5373 US	9635

466 7590 05/20/2004

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EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/885441

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 12/15/03

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☐ Claim(s) 1-35 is/are pending in the application.
Of the above, claim(s) 5-9, 12, 20-25, 27, 28 is/are withdrawn from consideration.
☐ Claim(s) is/are allowed.
☐ Claim(s) 1-4, 10, 11, 13-19, 26, 29-35 is/are rejected.
☐ Claim(s) is/are objected to.
☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6/26/01
☐ Interview Summary, PTO-413
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Art Unit: 1617

Applicant's election with traverse of Group I, octyl palmitate, sorbitan monoleate and alkyl polyglucosides in Paper No. 10/15/02 and 12/15/03 is acknowledged. The traversal is on the ground(s) that there is no burden to search. This is not found persuasive because burden has been shown by the classification of Groups into entirely different classes. Applicants' argument that this is not evidence for the propriety of the requirement is mere opinion.

The requirement is still deemed proper and is therefore made FINAL.


Claims 1-4, 10, 11, 13-19, 26, 29-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 16, 19, 31 "preferably" renders the claim vague; what follows is not definitely claimed. In claims 16, 17, and 30 "particularly" renders the claim vague; what follows is not definitely claimed. In claim 19, "such as, for example" renders the claim vague; what follows is not definitely claimed. In claim 29, "[lacunae]" is indefinite. In claim 30 "type" is vague; what precedes the term is rendered not definitely claimed.

The abstract of the disclosure is objected to because the last sentence does not contain a verb. Correction is required. See MPEP § 608.01(b).

No claims allowed

.Any inquiry concerning this communication should be directed to Edward J. Webman at telephone number 571-272-0633.


EDWARD J. WEBMAN
PRIMARY EXAMINER
GROUP 1500